

Notice of Allowability

Application No.

09/876,912

Examiner

Cheryl Juska

Applicant(s)

MAGEE ET AL.

Art Unit

1771

eb

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE and amendment filed 02/6/04.
2. ☒ The allowed claim(s) is/are 9-11 and 15-17.
3. ☒ The drawings filed on 08 June 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 7/03, 11/03
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Cheryl Juska
Primary Examiner
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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 6, 2004, has been entered.

Response to Amendment

2. Applicant's amendment filed on February 6, 2004, has been entered. Claims 1-8 and 12-14 are cancelled, while claims 9, 11, and 15 have been amended. New claim 17 has been added.

3. The cancellation of claims 1 and 5 renders moot the 102 rejections of said claims as set forth in sections 4 and 5 of the Final Rejection of October 6, 2003. Additionally, the 103 rejections set forth in sections 6-9 of the Final Rejection are hereby withdrawn due to the cancellation of claims 1 and 3-5 and the amendment to claim 15. Specifically, the amendment to claim 15 overcomes the 103 rejections by limiting the woven carpet substrate made of carpet yarns to having a sisal-like surface with raised knuckles and interstitial depressions with the number of yarns per inch being less than 10 x 10.

4. With respect to the 103 rejections of claims 7 and 9-11, set forth in section 10 of the Final Rejection, the cancellation of claim 7 renders moots this rejection. Regarding claims 9-11, applicant argues the present invention differs from the prior art in that the relatively heavy carpet

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yarns provide a greater degree of knuckles and depressions than the prior art woven fabrics, woven of finer yarns (Amendment, pages 5-6). In particular, applicant notes the cited prior art of Scott (WO 99/19557) explicitly states that carpet yarns have a denier ranging from 600 to 3600, which are considerably heavier than even conventional upholstery or drapery fabrics (Amendment, page 6, lines 1-5). Additionally, applicant notes that the cited Blumenhaus reference teaches relatively level or flat textiles surfaces, contrary to the claimed relatively non-flat, sisal-like carpet substrates (Amendment, page 6, lines 5-13). Furthermore, it is noted that the present claims have been limited to jet dyeing, thereby excluding screen printing process of Buemenaus. Applicant also argues that the cited reference of Scott teaches patterns are developed in woven carpets by employing yarns of different colors (i.e., pattern woven into carpet) as opposed to the presently claimed jet dyeing of woven carpet substrates to provide a pattern or design. Therefore, applicant's arguments are found persuasive and the rejections set forth in section 10 are hereby withdrawn.

5. An updated search of the prior art has produced US 6,142,619 and US 2002/0024549, both issued to Miura et al. Miura teaches ink jet dyeing of textiles having improved resolution, wherein the average diameter of each dye dot is $\frac{3}{4}$ or less the average diameter of the fibers of said textile (abstract). However, Miura only employs relatively fine (i.e., flat) fabrics, such as cotton lawn (Miura '2002, page 7, section [0113]). Since woven carpet substrates are not typically printed or dyed with a pattern or design after weaving and since there is no teaching or suggestion in either Miura reference to employ the ink jet dyeing process to woven fabrics having a sisal-like surface of raised knuckles and interstitial depressions, the present claims are patentably distinct from said Miura references.

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6. Therefore, claims 9-11 and 15-17 are in condition for allowance.

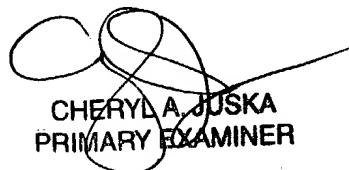
Conclusion

7. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached at 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


CHERYL A. JUSKA
PRIMARY EXAMINER

cj
March 15, 2004